

Minutes
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240
Phoenix, AZ 85007

Tuesday, February 23, 2016
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:08AM
2. **ROLL CALL** – Board Members in attendance: LeRoy Brady, Douglas Folk, Jason Foose, Neal Jones, Jason Madison, Edward Marley, Stephen Noel, and Robert Stanley. Absent: Alejandro Angel. Staff: Melissa Cornelius, Michelle Fleming, Douglas Parlin, Patrice Pritzl, and Michelle Johnson. Assistant Attorney General: Michael Raine.
3. **CALL TO THE PUBLIC** – No one addressed the Board.
4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject January 26, 2016 Board meeting minutes.
The members reviewed the minutes. Mr. Foose moved to approve the minutes. Mr. Noel seconded the motion. No further discussion; motion carried. Mr. Marley and Mr. Stanley abstained.
- B. Approve, modify and/or reject February 10, 2016 Telephonic Board meeting minutes.
The members reviewed the minutes. Mr. Noel moved to approve the minutes. Mr. Jones seconded the motion. No further discussion; motion carried. Mr. Marley and Mr. Madison abstained.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

- A. Consideration of Motion to Deem
 1. Case No. A13-012, Armando Collelmo, Non-Registrant
The Respondent, Armando Collelmo, appeared and was not represented by legal counsel. Assistant Attorney General, Michael Raine appeared on behalf of the State. Christopher Munns, AAG, appeared to provide legal advice to the Board.

Mr. Raine presented an argument to the Board in support of the State's Motion to Deem, which was filed on February 16, 2016.

Mr. Raine stated that the Board did not receive an official answer to the complaint,

Notice of Hearing within 30 days as required by law. The Board's statute requires that the Board deem the allegations in the Complaint and Notice of Hearing as admitted, if an answer is not filed in a timely manner. Mr. Raine asked the Board impose a civil penalty against the Respondent in the amount of \$2000 and costs of investigation. The Respondent responded in Spanish. Board staff, Lilianna Ruiz, interpreted for the Board. Respondent said he worked with registrant, Fred Benedict (PLA #26398). The Respondent argued that the statute of limitations should apply, since this case is 3 years old and stated that the proposed penalty was too high. The Respondent agreed that the translation from Spanish to English was accurate.

Mr. Raine argued that the Statute of Limitations argument the Respondent presented did not apply to this case.

Mr. Folk asked for the date the Board received this complaint and was told it was filed on May 9, 2012. The Respondent replied to the initial complaint with a letter. It was confirmed he retained an attorney until recently. The Respondent presented letters from his attorney and the land surveyor he worked for. Mr. Folk asked Mr. Munns whether the Board could excuse the Respondent's failure to respond timely. Mr. Munns advised that the Deem is required in the Board's statute, but "there is gray area" because the statute did not indicate that the answer couldn't be filed before the Complaint and Notice of Hearing was filed.

Mr. Folk spoke against the State's request to Deem Allegations admitted. Mr. Folk moved to deny the Motion to Deem. Mr. Marley seconded the motion. No further discussion; motion passed.

Mr. Raine argued that the Respondent's failure to answer was "pure neglect." He requested that if the Board denied the Motion to Deem, that it direct the Respondent to file a formal answer within in a specific time frame. The Respondent was directed to file a Formal Answer to the Complaint within 30 days of this date. The Respondent agreed to comply. The Board directed staff to set a hearing at a future date.

B. Reconsideration of Consent Agreement

1. Case No. P15-072, Victor Fontes, Non-Registrant

The Respondent, Victor Fontes, appeared and addressed the Board. The Respondent requested that the Board reconsider his signed consent agreement, which was finalized in 2015. The Respondent requested that the Board dismiss the case against him. He argued that improprieties had occurred in the investigative process. He argued that the EAC did not include a member of the public and the surveyors present were biased against him. The Respondent also claimed that he was denied the right to confront his accusers.

Board members questioned the Respondent. Mr. Fontes explained that he signed the consent agreement because he didn't read it and he made a mistake. Mr. Hunt, investigator, clarified certain issues the Respondent had raised and confirmed details of the consent agreement had been discussed with Mr. Fontes. Mr. Fontes stated he

understood the consent agreement and its terms. Mr. Foose moved to deny the reconsideration of the Respondent's signed consent agreement. Mr. Folk seconded the motion. No further discussion; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P16-043, John Bryan, Non-Registrant
2. HI16-011, Michael York, C.H.I. #38083

Mr. Madison moved to consent items 6A(1) and 6A(2) and dismiss the above referenced cases. Mr. Marley seconded the motion. No further discussion; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P16-030, John Trimble, P.E. (Civil) #02201(Retired 8/18/2010)

Mr. Kraemer, investigator, gave a synopsis of the complaint to the Board. Mr. Madison moved to issue a Letter of Concern to the Respondent because his license has been on retired status and he should not be practicing. Mr. Foose seconded the motion. No further discussion; motion carried.

2. HI16-007, Bernard Rubin, C.H.I. #38442

The Respondent, Bernard Rubin, appeared and addressed the Board. A Letter of Concern was recommended for reporting deficiencies regarding the water damage to the property. Mr. Madison moved to issue the recommended Letter of Concern. Mr. Foose seconded the motion. No further discussion; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. P14-095, Bradley Graham, R.A. #15430

Mr. Marley disclosed involvement in reviewing the previous case involving the Respondent's possible aiding and abetting an unlicensed person, but declared he could judge this matter fairly and impartially. Mr. Foose moved to accept staff's recommendation to offer the proposed, modified consent agreement and if not signed within 30 days, refer to a formal hearing. Mr. Noel seconded the motion. No further discussion; motion carried.

2. P16-039, Zeyn Uzman, P.E. (Civil) #37789

The Board received a signed consent agreement from the Respondent. Mr. Madison moved to accept the signed consent agreement. Mr. Noel seconded the motion. No further discussion; motion carried.

3. P15-057, Shane Barnett, R.L.S. #50618

The Respondent, Shane Barnett, appeared and addressed the Board. The Respondent

requested that the proposed stayed suspension be shortened from 24 months to 12 months. Mr. Marley spoke in support of lowering the stayed suspension as it is tied to the payment period. Mr. Foose explained that the length of time (24 months) was required to complete the proper peer reviews. Mr. Raine explained what "stayed suspension" was to the Respondent. Mr. Madison mentioned that if the Respondent completed all the terms of the order, he could petition the Board for an early termination. Mr. Marley moved to offer the consent agreement with the modification of the stayed suspension/probationary period from 24 months to 12 months. Mr. Madison seconded the motion. No further discussion; motion carried.

4. P15-088, Bruce Small, R.L.S. #12122

Mr. Foose opened the discussion on this case. The EAC committee encouraged the alleged to reach out to the Respondent to address the corrective measures required. AZ Boundary Resolution item #7 requires the surveyors to try and resolve the complaints. The Respondent did not reach out to the alleged, another surveyor. Mr. Foose moved to send Respondent a Letter of Concern regarding item #7. Mr. Folk seconded the motion. It was noted that the Board received a signed consent agreement from the Respondent. Mr. Foose withdrew his motion and moved to accept the signed consent agreement. Mr. Stanley seconded the motion. No further discussion; motion carried. Mr. Madison voted nay.

5. P16-011, David Marsh, P.E. (Civil) #46538

The Respondent, David Marsh, appeared and addressed the Board. He agreed to take an ethics class but he did not agree to all the proposed terms in the offered agreement. The Board members reviewed the consent agreement. Mr. Marley moved to offer the proposed consent agreement without amendment to the Respondent. The matter will proceed to a formal hearing if not signed within 30 days. Mr. Foose seconded the motion. No further discussion; motion carried.

5. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P16-029, Thomas Trimble, Non-Registrant (Registration Revoked)

The Board Staff recommended that the Board accept the signed consent agreement and directed the Assistant Attorney General, Mr. Raine to seek an injunction in Superior Court. It was noted that the Board could also refer this case to the Attorney General's office for criminal prosecution. Mr. Raine indicated that if Respondent violates an injunction, he can ask the Court for a variety of remedies. Mr. Madison moved to accept the signed consent, directed the AAG to seek an injunction and refer the matter for criminal prosecution. Board staff was directed to inform the Respondent in a letter that these actions will occur. Mr. Marley seconded the motion. No further discussion; motion carried.

Mr. Marley initially directed staff to open a case against Mr. Roberts, who signed Mr. Trimble's drawings, after they were rejected by local authorities.

2. AL16-003, Shadow Surveillance, LLC, Non-Registrant Firm
3. P16-036, James Lapuzza, R.L.S. #29879, Rio Rico Land Survey, P.L.L.C., Non-Registrant Firm

Mr. Madison moved to consent items 6D(2) and 6D(3) and accept the signed consent agreements. Mr. Marley seconded the motion. No further discussion; motion carried.

E. Complaints Requiring Board Guidance:

1. P15-085, David Montgomery, P.E. (Civil) #21549

Mr. Folk recused himself. The Respondent, David Montgomery, appeared and addressed the Board. The Board reviewed the signed consent agreement. Mr. Stanley moved to accept the signed consent agreement. Mr. Marley seconded the motion. No further discussion; motion carried.

F. Review, Consideration and Action on Respondent's Counter-Offer of Consent:

1. HI16-016, Fidelity Inspection & Consulting Services, Non-Registrant Firm

Staff noted that the Board offered the Respondent a consent agreement to resolve the above referenced complaint at its January 2016 meeting. The Respondent presented a counterproposal for the Board's consideration. Jim Ballenger, attorney, appeared on behalf of the Respondent. He stated that the Respondent doesn't conduct home inspections; they order inspections to be conducted by licensed CHIs. Fidelity Inspection provides relocation services for employees of large companies, and provides various services to accomplish these goals, including home inspections. The cover page of the report says "home inspection report" which is inaccurate but admittedly gives the Board jurisdiction even though Respondent wasn't conducting an actual home inspection. The Respondent will amend its report cover page to accurately reflect that they are ordering a home inspection by licensed CHIs and will avow that it will not conduct home inspections.

Mr. Warner, investigator, addressed the Board and indicated that all home inspections were published using the Respondent's letterhead. The Respondent's Attorney indicated that the form is a relocation industry promulgated property assessment form that might include a home inspection report. Mr. Raine provided comment, indicating that the proposed modifications to the consent cure the issues before the Board.

Mr. Folk expressed concerns with the actions addressed in the complaint. He stated that the licensed home inspector's report should be given to the consumer, not a synopsis of it provided by the Respondent. The Respondent's attorney responded that the corrected cover page should provide the necessary information and the actual home inspection report will be available to the public. Mr. Folk disputed that the report the Respondent provides to the public is not a lawful home inspection.

Board members discussed the issues and expressed concerns that the Respondent's proposed solution was not sufficient to meet requirements of Arizona law. Mr. Marley suggested referring the case back to board staff to work out the details and the concerns with the Respondent's coversheet. Mr. Folk spoke to increasing the civil penalty because the facts indicate that multiple violations have occurred. The Board offered that the consent agreement needs to provide more guidance to the Respondent regarding the

logos, the disclosures and an assurance of discontinuance. Mr. Parlin suggested that the firm become licensed in Arizona. Mr. Raine advised against the Board providing guidance to the Respondent. Mr. Folk moved that the Board send the case back to staff to negotiate a new consent agreement with the Respondent, to be presented at the next month's meeting. Mr. Marley seconded the motion. No further discussion; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration:

- A. Blaker, Allen Home Inspector Application #151527

The Applicant, Allen Blaker, appeared and addressed the Board. Mr. Marley moved to continue until the March Board meeting, in order to receive and review documents from the Private Post-Secondary Board. Mr. Foose seconded the motion. No further discussion; motion carried.

Whether to Grant Requests for Extension of Licensing Time Frames:

- B. Aidoo, Frederick Architect Application #050789

Mr Marley moved to grant applicant an extension. Mr. Jones seconded the motion. No further discussion; motion carried.

- C. Khorsandi, Mehrzad Architect Application #021077

The Applicant, Mehrzad Khorsandi, appeared and addressed the Board. She requested an additional extension to take and pass the ARE. The Applicant passed one section of the ARE. The Applicant avowed that she was prepared to take and pass the remaining sections of the ARE. She requested an extension through the end of 2016. Mr. Marley moved to extend the application and exam authorization until December 31, 2016. The Board stressed to Ms. Khorsandi that no further extensions will be approved. Mr. Jones seconded the motion. No further discussion; motion carried.

Whether to Grant or Deny Authorization to take Exams:

- D. Almatari, Alaa Civil Engineer Application #152564

The Applicant, Alaa Almatari, appeared and addressed the Board. The Applicant did not provide references from registered engineers on his application. The Board evaluator recommended a full board review. The Applicant requested authorization to take the national exams. Mr. Madison asked for clarification regarding the FE waiver. Mr. Stanley recommended that the Board authorize the Applicant to take the PE. Mr. Stanley moved

to authorize Applicant to take the PE and waive the FE. Mr. Folk seconded the motion. No further discussion; motion carried. Mr. Madison opposed.

E. Dalbik, Raed

Land Surveyor Application #152630

The Applicant, Raed Dalbik, appeared and addressed the Board. Mr. Brady disclosed that he knew the applicant but felt he could sit and judge the matter fairly and impartially. The Applicant is a registered civil engineer and has worked for ADOT for 9 years. It was explained that Mr. Dalbik has submitted two applications to sit for the PS exam. The first Board evaluator determined that he did not meet the qualifications in law, but a staff person had mistakenly approved him to sit for the exam. The second time he failed the exam. The Board's new evaluator determined that Mr. Dalbik needed an additional 36 months of surveying experience to qualify to sit for the exams. Mr. Foose told the Applicant that he needs additional experience in boundary surveying.

Mr. Foose moved to deny the authorization to take the professional exam. Mr. Stanley seconded the motion. No further discussion; motion passed.

F. Goudeau, Daniel

Mining Engineer Application #152463

Mr. Madison moved to reopen this application and extend the application for testing. Mr. Noel seconded the motion. No further discussion; motion carried.

G. Henderson, Brent

Land Surveyor Application #140123

Mr. Foose moved to reopen the application and authorize the applicant to continue testing until end of December 2016. Mr. Stanley seconded the motion. No further discussion; motion carried.

H. Spangler, Timothy

Land Surveyor Application #152275

Mr. Foose moved to reopen the application and extend it so it can move to the Substantive Review process. Mr. Jones seconded the motion. No further discussion; motion carried.

Whether to Grant or Deny Registration after Full Board Review

I. Coleman, Shawn

Civil Engineer Application #152375

Mr. Madison moved to grant registration to Mr. Coleman; Mr. Stanley seconded the motion. No further discussion; motion carried. Mr. Foose opposed.

J. Djordjevic, Dusan

Chemical Engineer #151586

Mr. Madison indicated that this application had no professional engineer COES, but the qualifications of the applicant appeared to be satisfactory. Mr. Madison moved to grant the registration. Mr. Stanley seconded the motion. No further discussion; motion carried.

8. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on Staff Recommendations for the following:

1. Cancellation of registrations and certifications that have been expired for one full renewal period – None this month.

B. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § § 32-122.05, 32-122.06, and A.R.S. § 32-123. – None this month.

List available for public review upon request.

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

A. Bills pending during the 2016 Legislative Session:

1. HB2613
2. SB1422 (Omnibus)
3. SB1256 (Deregulation of Assayers, et.al.)
4. SB1122 (Alarms)
5. SB1119 (Continuation)
6. HB2333 (retaining walls)

Ms. Cornelius explained the status of all of the bills noted on the agenda.

B. BTR's Social Media Policy

Ms. Cornelius informed the Board the Social Media Policy has been completed and a Facebook page established.

10. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius stated with 57% of the budget year elapsed; the Board has spent 57% of its appropriation and 79% of its revenue.

B. Staff Update

Ms. Cornelius reported that Alicia Guerra will return to her position as Board Operations Manager after an extended absence on March 1, 2016.

C. Previous Meeting Follow-Up

ASET/ADOA approved the Boards PIJ on February 10, 2016. SPO awarded the RFP to GL

Solutions on February 22, 2016. Board staff will be in contact with the vendor as soon as possible. The Governor's proposed budget includes the Boards request for an \$800,000 increase in our appropriation to pay for the new system.

The Palo Verde Power Plant invited the Board to tour the facility on March 23, 2016.

D. Director's Meetings

Ms. Cornelius and Ms. Pritzl have met with legislators, legislative staff, and Governor's Office staff to discuss the pending bills that may impact the Board.

11. BOARD CHAIR'S REPORT – The Chairman waived giving a report this month.

12. STANDING COMMITTEE REPORTS

A. Legislation and Rules Committee

Question from the Committee – What an electronically signed seal looks like and what is acceptable? The Board will provide guidance on this matter.

B. Home Inspector Rules and Standards Committee – Nothing new to report.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. ASBOG – Nothing new to report.

B. CLARB – Nothing new to report.

C. NCARB – Nothing new to report.


D. NCEES – Ms. Cornelius, Ms. Pritzl, Dr. Angel and Mr. Foose to attend the Western Zone meeting in Anchorage, Alaska in May 2016.

14. FUTURE BOARD MEETINGS – Tuesday, March 22, 2016

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS – Nothing suggested at this time.

16. MEETING ADJOURNMENT – 3:25PM


E. LeRoy Brady, Chairman


Melissa Cornelius, Executive Director